

# EXHIBIT 138

NO. GV401286

THE STATE OF TEXAS	*	IN THE DISTRICT COURT
ex rel.	*	
VEN-A-CARE OF THE	*	
FLORIDA KEYS, INC.	*	
Plaintiffs,	*	
	*	
VS.	*	TRAVIS COUNTY, TEXAS
	*	
ABBOTT LABORATORIES INC.,	*	
et al.	*	
Defendants.	*	201ST JUDICIAL DISTRICT

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ORAL AND VIDEOTAPED DEPOSITION OF

PATRICIA CARROLL GLADDEN

MAY 30, 2007

VOLUME 1

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1 Q. And how did Texas Medicaid determine whether  
2 that standard was being met?  
3 MS. JACOBS: Objection; form.  
4 A. I think it's more a question of, if there were  
5 any problems, complaints, whatever, we would hear about  
6 it.  
7 Q. Did concerns about -- excuse me. Did concerns  
8 about Medicaid patient access influence attempts to  
9 reduce drug reimbursement?  
10 A. The -- one of the -- the thing that -- when we  
11 work on reimbursement, we tie it to our best estimate of  
12 what it really costs to do business. We have no reason  
13 to believe that as long as we are covering the  
14 pharmacy's costs, that we're going to have an access  
15 problem. And our reimbursement in Texas has always  
16 provided for not only covering costs but the inventory  
17 management factor, which helps -- helps to provide cost  
18 coverage for pharmacies that perhaps wouldn't be able to  
19 make it under just the basic cost, and it also allows  
20 more efficient pharmacies to make a profit.  
21 Q. Pharmacies complained to Texas Medicaid  
22 throughout the years that reimbursement was  
23 insufficient, right?  
24 A. No. They've never -- let me clarify that.  
25 Everybody would like to be paid more, but we did not

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1 have pharmacies dropping out of the program because of  
2 their reimbursement.  
3 Q. Did they threaten to drop out because of their  
4 reimbursement?  
5 A. Yes.  
6 Q. And in fact, on several occasions the Texas  
7 Pharmacy Association prevented Texas Medicaid from  
8 lowering reimbursement, right?  
9 MS. JACOBS: Objection; form.  
10 A. They did attempt to stop Texas Medicaid from  
11 lowering reimbursement on several occasions.  
12 Q. They succeeded on all occasions, didn't they?  
13 A. They did not.  
14 Q. They succeeded on all occasions other than in  
15 1997 when Texas Medicaid increased -- or excuse me,  
16 altered the reimbursement to AWP minus 15 percent?  
17 A. They did not succeed in 1985 either.  
18 Q. Okay. Other than 1985, didn't they succeed on  
19 all occasions?  
20 MS. JACOBS: Objection; form.  
21 A. And I believe you mentioned 1997.  
22 Q. Well, in fact, the AWP minus 15 was the result  
23 of a settlement after they did prevail on a preliminary  
24 injunction; isn't that correct?  
25 MS. JACOBS: Objection; form.

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1 A. They prevailed on the issue of the fee.  
2 Q. And the TPA -- you refer to the Texas Pharmacy  
3 Association as the TPA?  
4 A. Yes.  
5 Q. They sued to enjoin the reduction in the  
6 inventory management factor in 1995?  
7 A. I believe that's the same suit.  
8 Q. It's not, actually, but if that's your  
9 recollection, that's fine.  
10 MS. JACOBS: Objection --  
11 Q. They did in fact sue to prevent the reduction  
12 in the inventory management factor?  
13 MS. JACOBS: Objection; form.  
14 A. I don't recall that.  
15 Q. And they sued in 1996, moved over into 1997, to  
16 enjoin the reduction in the dispensing fee to \$3?  
17 A. That, I remember.  
18 Q. And they prevailed on that, right?  
19 A. Yes.  
20 Q. And they sued to enjoin -- in 2002, they sued  
21 to enjoin a reduction in the reimbursement?  
22 A. They did.  
23 Q. And they prevailed on that?  
24 A. Technically, I don't think they prevailed on  
25 it. I think we just dropped it.

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1 Q. How do you reconcile that pharmacies were  
2 complaining about reimbursement at the same time that,  
3 according to this lawsuit, they were being  
4 over-reimbursed?  
5 MS. JACOBS: Objection; form.  
6 A. Pharmacies are, for the most part, in business  
7 to make a profit. In the years that I've been with the  
8 program, each time there has been an effort to reduce  
9 pharmacy reimbursement, there has been a lawsuit. When  
10 the State has prevailed, pharmacy participation has gone  
11 up.  
12 Q. And you're referring to in 1985, when the State  
13 prevailed?  
14 A. And in 1997 as well.  
15 Q. Well, the State didn't prevail in 1997, did  
16 they?  
17 MS. JACOBS: Objection; form.  
18 Q. The injunction was granted, wasn't it?  
19 A. Yes. But the reimbursement was reduced  
20 ultimately.  
21 Q. And how was the reimbursement reduced?  
22 A. You characterized it yourself. The AWP minus  
23 15 was implemented.  
24 Q. Do you have an understanding -- or do you draw  
25 a distinction between an audit and a survey?

45 (Pages 174 to 177)